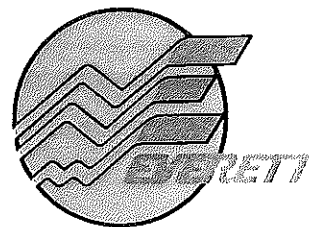


ORDINANCE NO. 2600-02



**AN ORDINANCE ADOPTING THE UPDATED
SHORELINE MASTER PROGRAM, SUPERSEDING THE EXISTING
SHORELINE MASTER PROGRAM AND AMENDING THE
EVERETT COMPREHENSIVE PLAN AND ZONING CODE,
AMENDING ORDINANCE NO. 2021-94 and ORDINANCE
NO. 1671-89 (TITLE 19 EMC), AND REPEALING ORDINANCE NO. 2512-01**

WHEREAS, the State Legislature enacted the Shoreline Management Act requiring cities and counties throughout the state to adopt and amend from time to time shoreline master programs; and

WHEREAS, the Growth Management Act, RCW 36.70A.580, provides that the goals and policies of the shoreline master program shall be considered an element of the City's comprehensive plan, and the other portions of the shoreline master program shall be considered part of the City's development regulations; and

WHEREAS, the Growth Management Act, RCW 36.70A.130, authorizes the City to amend the comprehensive plan in order to adopt or amend shoreline master programs at any time; and

WHEREAS, attached hereto as Exhibit A is the City of Everett's updated Shoreline Master Program; and

WHEREAS, the Planning Commission has recommended that the City Council adopt the updated Shoreline Master Program for the reasons specified in Planning Commission Resolution No. 2000-010; and

WHEREAS, the City has conducted an environmental review under SEPA and the City Council has conducted public workshops and public hearings to review the recommendations of the Planning Commission and to take additional public testimony; and

WHEREAS, the City Council passed Ordinance No. 2512-01 adopting the updated Shoreline Master Program on March 21, 2001; and

WHEREAS, Ordinance No. 2512-01 was to become effective upon the Department of Ecology's approval of the updated Shoreline Master Program; and

WHEREAS, the Department of Ecology by letter dated March 21, 2002, notified the City that Ecology had determined that the Shoreline Master Program update together with proposed changes would be consistent with Chapter 90.58 RCW; and

WHEREAS, the City has determined that it agrees to the proposed changes as provided for by WAC 173-26-120(7)(b)(i) and RCW 90.58.090 and revised the updated Shoreline Master Program to incorporate these changes; and

WHEREAS, the City Council finds that the policies and regulations set forth in Exhibit A are consistent with the Shoreline Management Act and its recently adopted implementing regulations, the Growth Management Act, the other elements of the City's comprehensive plan, and other applicable law;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

SECTION 1: That the City Council hereby adopts in accordance with the State of Washington Shoreline Management Act the updated Shoreline Master Program as set forth in Exhibit A which is attached hereto and incorporated herein by reference.

SECTION 2: That the City Council hereby amends Ordinance No. 2021-94, as amended, to add the following section:

That the City Council incorporates the Shoreline Master Program adopted in Ordinance No. 2600-02, except for those provisions designated as "regulations," as an element of the Everett Comprehensive Plan and repeals Land Use Policy 1.12 and all of its subsections and the second paragraph of Land Use Policy 1.15.

SECTION 3: That the City Council hereby amends Ordinance No. 1671-89, as amended, (Title 19 EMC) by the addition of a chapter entitled "Shoreline Overlay District which shall be composed of the following provisions of the Shoreline Master Program adopted by Ordinance No. 2600-02 : Section 2, the provisions designated as "regulations," Figures 4.1 through 4.23, and the definitions in Section 7.

SECTION 4: That this ordinance and the updated Shoreline Master Program amend and supersede the Shoreline Master Program Goals, Policies and Environment Designations adopted by the City on August 28, 1974, and the Shoreline Master Program Use Regulations adopted on September 10, 1975, as they may have been amended. Provided, nothing in this ordinance shall be construed as abating any official action of the City now pending under or by virtue of the Shoreline Master Program Goals, Policies and Environment Designation or the Shoreline Master Program Use Regulations herein superceded by the adoption of this ordinance or as waiving any right of the City under the policies, provisions and regulations superceded by the adoption of this ordinance.

SECTION 5: That the Planning and Community Development Department is authorized to determine, in consultation with the City Clerk and the City Attorney, the format for the publication and codification of the various portions of the updated Shoreline Master Program in the City's Comprehensive Plan and Zoning Code.

SECTION 6: That should any section, subsection, paragraph, sentence, clause or phrase set forth in this ordinance or in Exhibit A or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or Exhibit A or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this ordinance and Exhibit A and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

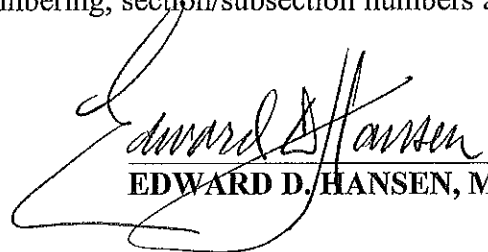
SECTION 7: That it is expressly the purpose of this ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance.

It is the specific intent of this ordinance that no provisions nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees or agents.

SECTION 8: The effective date of this ordinance shall be the date on which the Washington Department of Ecology approves the updated Shoreline Master Program as provided by RCW 90.58.090.

SECTION 9: Ordinance No. 2512-01 is hereby repealed.

SECTION 10: The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.


EDWARD D. HANSEN, Mayor

ATTEST:


CITY CLERK

Passed: 4-24-02

Valid: 4-30-02

Published: 5-3-02

Effective Date: 5-3-02



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

P.O. Box 47600 • Olympia, Washington 98504-7600
(360) 407-6000 • TDD Only (Hearing Impaired) (360) 407-6006

March 21, 2002

CERTIFIED MAIL

Paul Roberts, Director
Planning and Community Development
City of Everett
2930 Wetmore Avenue, Suite 8-A
Everett, WA 98201

RECEIVED
MAR 25 2002

CITY OF EVERETT
Planning Dept.

Dear Mr. Roberts:

Re: Shoreline Master Program Amendment – Comprehensive Rewrite
Ordinance 2512-01

The Department of Ecology (department) has determined that the City of Everett's proposed shoreline master program amendments together with the changes indicated in the enclosed Findings and Conclusions are consistent with Chapter 90.58 RCW, the Shoreline Management Act of 1971. Per RCW 90.58.090 and WAC 173-26-120(7)(b)(i), the department's approval of the city's amendment submittal together with required changes will be effective as of the date the department receives written notice of your agreement to the required changes.

I want to recognize the substantial effort that you and the citizens of Everett have put into updating the city's shoreline program in a manner consistent with current science and good shoreline management practice. Our review of the city's proposed amendments has found that they will provide greatly increased protection of shoreline ecological functions when compared to your current program. I believe the inventory process you used as the foundation for decision-making was exemplary. This strong foundation has enabled the city to tailor the new shoreline program to unique local circumstances and to apply a variety of techniques that will protect valuable shoreline resources while still accommodating future shoreline development. We look forward to supporting the city in the future as it implements this new shoreline management program.

As a reminder, WAC 173-26-120(9) requires you to promptly publish a notice that the department has taken final action. Therefore, if the city agrees with the changes referred to above, it should publish notice after the department acknowledges receipt of such



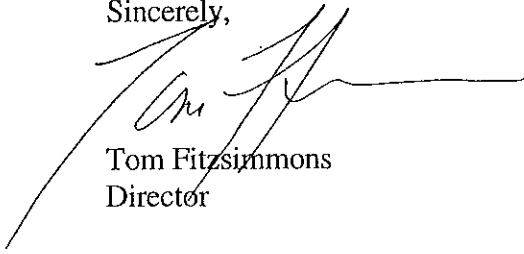
Paul Roberts, Director

March 21, 2002

Page 2

agreement. This will initiate an appeal period which lasts 60 days. Three copies of the final amendment are required to be forwarded to Ecology. Should you have any questions, please contact Bob Fritzen at (360) 676-2199. Thank you.

Sincerely,



Tom Fitzsimmons
Director

Enclosure

cc: Bob Fritzen, Ecology
Peter Skowlund, Ecology
Linda Rankin, Ecology

CITY OF EVERETT AMENDMENT PROPOSAL

COMPREHENSIVE REWRITE

Ordinance No. 2512-01

Findings and Conclusions

March 1, 2002

PURPOSE OF AMENDMENT: The City of Everett's (City's) shoreline master program (SMP) has not been updated since its adoption in 1976. The purpose of this amendment is to reflect the many changes that have occurred during that span of time. These changes include; the need to integrate with the City's Comprehensive Plan, annexations, listings of threatened and endangered species established by the Endangered Species Act (ESA), new science, public access issues, and the Department of Ecology's (department's) efforts to adopt new guidelines for shoreline master programs.

AMENDMENT: The amendment is a comprehensive rewrite of the entire shoreline master program. Along with revised goals, policies, and regulations, the City has inventoried its shorelines and established new shoreline environment designations. Environment designations have been assigned to specified areas and indicate allowable shoreline development. Additionally, the City has chosen to adopt by reference, specific ordinances related to flooding, nonconforming uses and structures, and sensitive areas as listed in Section 2.1.

PUBLIC COMMENTS: A large amount of letters, emails, and oral testimony was recorded both during the City's and department's public comment periods. A number of issues were raised. The City has provided the department with a response to these issues. Similarly, the department has summarized the issues and written a response. These documents are available upon request from the department.

FINDINGS: The City submitted the proposed SMP on April 16, 2001. Public hearings were held on June 7th and 11th. Notice of such hearings was published on May 23rd and 30th in the Everett Herald. Opportunity to provide written comment was provided from May 2nd to June 22nd.

A total of 149 comments were received either in writing or at the hearings. A summary of those comments was compiled and submitted to the City for response pursuant to WAC 173-26-120, along with copies of all written and oral testimony. The City's response to those comments was received on December 24, 2001.

The City has written and submitted the amendment based on the department's guidelines adopted in November of the year 2000. On August 27, 2001 the Shorelines Hearings

Board (SHB) entered a decision invalidating WAC 173-26, Ecology's guidelines for developing local shoreline master programs under the Shoreline Management Act (SMA). Because of the SHB's decision, review of this amendment is based on the policies and provisions found in RCW 90.58, including, but not limited to:

- RCW 90.58.020 – SMA policies
- RCW 90.58.030 – definitions and concepts
- RCW 90.58.090 – “optimum implementation” related to shorelines of statewide significance
- RCW 90.58.100 – use of all available information, and elements of a SMP
- RCW 90.58.900 - liberal construction in terms of implementing the SMA

Among the policies set forth in RCW 90.58.020 is the requirement “to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses” while “...protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life...”.

In terms of shorelines of state-wide significance local government shall, in order of preference, give preference to:

- (1) Recognize and protect the state-wide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In preparing master programs, the SMA requires local government to consider “all plans, studies, surveys, inventories, and systems of classification made or being made by federal, state, regional, or local agencies, by private individuals, or by organizations dealing with pertinent shorelines of the state”. RCW 90.58.100.

The standard of review of SMPs submitted to the department, as established in RCW 90.58.090(3) and (4), is that with regard to shorelines, the department must approve a submittal unless it is inconsistent with the policy of the SMA and with regard to Shorelines of Statewide Significance, the department must find that the submittal provides for optimum implementation of the policy of this chapter to satisfy the statewide interest.

By the SMA's legislative link to the Growth Management Act (GMA), local government is required to include best available science (BAS) “in developing policies and

development regulations to protect the functions and values of critical areas.” Further, local government “shall give special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries.” RCW 36.70A.172(1).

As required by the GMA (RCW 36.70A.215), the City will be updating its sensitive area’s ordinance (SAO) by September of 2002. Because of this, the City has requested that no changes be made to the SAO at this time. Any necessary changes regarding sensitive areas have been made to other sections of the SMP. Language in the SMP requires that where conflicting regulations exist, the more protective of shorelines values and functions shall apply.

In general, the department’s required changes (indicated below in underline/strikeout format) are necessary to satisfy the policy of the act and provide clarity and reflect discussions with the City during the amendment process. The reasoning for each change is in bolded italics and in parenthesis.

CHANGES TO THE SMP AS SUBMITTED

SECTION 2

(page 2-1)

Contents of Everett Shoreline Master Program. The Everett Shoreline Master Program (SMP) contains the following:

- Section 1 – Community Vision and Introduction
- Section 2 – Users’ Guide and Basic Program Requirements
- Section 3 – General Goals, Objectives, Policies and Regulations
- Section 4 – Shoreline Environment Designations and Management Policies
- Section 5 – Shoreline Use Policies and Regulations
- Section 6 – Shoreline Modification Activities Policies and Regulations
- Section 7 – Definitions

(Section numbers added for clarity.)

- Appendix A – Documents Incorporated by Reference, including:
 - EMC 19.38 Nonconforming Uses, Buildings and Lots
 - EMC 19.30 Floodplain Overlay Districts and Regulations
 - Comprehensive Plan Goals, Objectives, and Policies for Environmentally Sensitive Areas
 - EMC 19.37 Environmentally Sensitive Areas and Applicable Definitions in EMC 19.04
 - Planning Director Interpretation No. 2-2000: Interim Procedures, Endangered Species Act (ESA) Listing for Chinook Salmon and Bull Trout

- The Snohomish Estuary Wetland Integration Plan (SEWIP) including the SEWIP Salmon Overlay. (Added consistent with Section 3 and the City's request to include the documents as part of the SMP.)

(Page 2-2) add after Master Program Regulations and before Administrative Provisions.

Shoreline Inventory. The following inventory information shall be considered along with more detailed site-specific studies when making regulatory decisions.

The Snohomish Estuary Wetland Integration Plan (SEWIP) including the SEWIP Salmon Overlay published in February 2001. Except for specific policies adopted as regulations in Section 3.9, the SEWIP work will serve as the primary inventory information and "Best Available Science" for those areas included in the SEWIP study area. (This language has been taken from Section 3 where the City has established SEWIP and the Salmon Overlay as part of the SMP. It is added here for consistency and to clarify its role in land use decisions.)

SECTION 3

(Page 3-24)

17. Public access improvements shall be designed to minimize impacts to environmentally sensitive areas, ecological functions, or ecosystem-wide processes. A biological assessment (Planning Director's Interpretation), and potentially a habitat management plan (EMC 19.37 – Environmentally Sensitive Areas), shall be required for each project in shoreline jurisdiction. The City may require that buffers be increased based upon the results of that assessment. Mitigation of impacts shall be required as appropriate. *(The added language is taken from the City's response related to concerns over adverse impacts from public access. The language is simply added to clarify how documents adopted by reference have been incorporated into the SMP regulations addressing these concerns.)*

(Page 3-30)

As stated above, these policies and regulations apply to all activities and uses in all environmental designations of the Shoreline Master Plan. Where conflict exists between any of these documents, the most protective of shoreline resources shall apply. This may mean that every parcel is not developable or fully developable as desired by a project proponent. Project proponents will be responsible for providing sufficient scientific information to document the environmental impacts and appropriate mitigation measures for their proposals. The City may deny projects that will result in significant ecological impacts that are not fully mitigated, even though the project is consistent with the use provisions of this SMP. *(The additional language is required due to the multiple planning documents the City has adopted by reference and is consistent with language in regulation #1 of this section.)*

SECTION 5

(Page 5-2) See attached Table 5.1. (Page 5-55)

6. ~~In approving shoreline recreational developments, the City of Everett shall ensure the development will maintain, enhance and restore desirable shoreline features. To this end the City may adjust and/or prescribe project dimensions, location of project components, intensity of use, screening, parking requirements and setbacks, as deemed appropriate to achieve this intent.~~

(Regulation number 6 is almost identical to regulation number 13 and should be deleted. Note that the numbering of the regulations that follow will need to reflect the change).

SECTION 6

(Page 6-2) See attached Table 6.1.

(Page 6-5)

While bulkheads and seawalls may protect the uplands, they do not protect the adjacent beaches, since in many cases they increase the rate of erosion of the sand in front of the structures or prevent the natural functions of feeder bluffs. *(The language is added as a factual statement and for completeness.)*

(Page 6-12)

Breakwaters are protective structures usually built off-shore and aligned parallel to the shore to protect development and uses associated with beaches, bluffs, dunes, moorages or developed harbor areas from wave action. However, because off-shore breakwaters are costly to build, they are seldom constructed to protect the natural features alone, but are generally constructed for navigational purposes. Breakwaters can be either rigid or floating and may be connected to the shore or not. The rigid breakwaters, which are usually constructed of riprap or rock, have both beneficial and detrimental effects on the shore. All breakwaters eliminate wave action and thus protect the shore immediately behind them. *(The language is added as a factual statement and is consistent with the SMP's description of shoreline stabilization.)*

ADDITIONAL CHANGES OFFERED BY THE CITY AFTER SUBMITTAL

This section reflects the department's required changes to new language offered by the City as a result of meetings with the department and as part of their response to comments received during Ecology's comment period. The new language was addressed to Gordon White of the Department of Ecology in a letter from Paul Roberts, Director – Planning and Community Development, dated December 21, 2001. Unless otherwise noted, the department concurs with the proposed changes.

MAULSBY MUDFLATS SUB-AREA PLAN

- **Maulsby Mudflats.** *In response to comment letters, the department and City entered into discussions on the creation of a sub-area plan that would address a wide range of concerns regarding potential development and habitat protection/enhancement of the Maulsby Mudflats and nearby areas. Based on those discussions a new subsection is added in Section 4 of the SMP. The department has made changes to City's proposed language as indicated:*

4.5 or 4.4B Urban Maritime Interim

Purpose

To provide an interim designation for a shoreline area that is characterized by high natural and economic resources of statewide importance that will allow the City and the Port, in cooperation with Ecology, interested agencies and members of the public, to conduct special area planning for the Maulsby Mudflats. This planning will commence within six months of the approval of the City's updated SMP, with the goal of completing the subarea plan in 18 months.

Area Designated - Urban Maritime Interim

The ~~Maulsby Mudflats~~—Salmon Overlay assessment unit (AU) 5.8 known as Maulsby Mudflats as depicted on Figure xx (Include Map).

Management Policies

In addition to those policies that apply to the Urban Maritime Designation the following policies shall apply:

1. The subarea planning process will result in a subarea plan and/or shoreline use regulations that will be incorporated into the City's and Port's comprehensive plans, including the Shoreline Master Program and zoning code as applicable.
2. While the plan is being prepared, the City and Port of Everett will not take actions that will limit the choice of reasonable alternatives in the planning for, or that will result in any significant impact to shoreline resources in, the Maulsby Mudflat (AU 5.08). The City will review applications for development by applicants in AU 5.08 to assure that such development would not ~~result in significant adverse impacts or limit the choice of~~ reasonable alternatives that are being considered in the subarea planning process or that will result in any significant impact to shoreline resources in the planning area.

3. The State of Washington may exercise independent authority including but not limited to, the Coastal Zone Management Act and Section 401 of the Clean Water Act, consistent with the authority granted thereby, either alone or in concert with action pursuant to the Shoreline Management Act to assure that any development proposed within the study area is consistent with the purpose of this interim environment designation and the policy of the Shoreline Management Act including provisions related to Shorelines of Statewide Significance. ~~The Department of Ecology will actively participate in the review of any development within the study area as a consulted agency under the State Environmental Policy Act and as applicable the agency responsible for certifying compliance with State Water Quality Standards and consistency with the Shoreline Management Act.~~

Contents of Subarea Plan

The plan will address the following, ~~building upon applying the data and analysis of~~ SEWIP and the SEWIP Salmon Overlay, consideration of best available science and cumulative impact analysis, water-dependent uses, and other applicable GMA/SMP elements:

1. specific areas to be preserved (or whose functions cannot be impaired or replaced), if any;
2. types of uses that could be appropriate or would not be appropriate, in portions or all of the Maulsby Mudflat area;
3. opportunities and priorities for restoring or enhancing ecological functions in the Maulsby Mudflat area and the Maulsby Swamp, or functionally connected habitats in the estuary, and cumulative benefits that could be achieved by a comprehensive approach to the navigational and ecological values in this harbor area;
4. consistency with the Shoreline Management Act including Shorelines of Statewide Significance criteria, the comprehensive plan, Shoreline of Statewide Significance designation, harbor area designations, and other applicable designations;
5. the appropriate shoreline environment designation for the area, based on the above analysis, including evaluating whether a new designation is needed and whether the entire area should have the same designation;

6. any special criteria needed for evaluating proposed projects in the area, other than the policies and use regulations in the SMP, critical area regulations, and other development regulations; and
7. measures or methods to monitor implementation of the plan and the cumulative effects of any future development.

Integrated document.

It is the intent to use the GMA/SEPA integration option to prepare a combined plan and nonproject environmental document to assist in planning, public and agency review, and decision making, as encouraged by Ecology rules and policy.

(Note that adoption of the interim designation will require revisions to all of the SMP figures that show the Maulsby Mudflats, including Figures 4.1, 4.3, 4.4, 4.16, and 4.17. These revisions must be made prior to final approval by City Council.)

- A new sentence is to be added to Regulation 7 on page 3-35 stating, "Water quality monitoring during construction and operation may be required by the Planning and Community Development Director or Hearing Examiner on a project by project basis based upon specific characteristics of the proposal."
- **Buffers.** *New/modified regulations are to be added to Section 3.9:*
 - a. Buffers shall not be reduced below 100 feet on Smith and North Spencer Islands adjacent to areas designated Aquatic Conservancy or SO AU 3.05, except
 - in the area south of 12th Street NE where dikes are adjacent to and protect the water pollution control facility, or
 - when a significant action that restores salmonid rearing habitat is incorporated into the proposal, including actions such as reconnection of a blind tidal channel, a dike breach, or removal of fill to create tidal marsh area

Provided however, that public access improvements such as trails and interpretive facilities may be included in portions of the buffer when the biological assessment and habitat management plan (if required) demonstrate no significant adverse impacts or that significant adverse impacts are mitigated. ~~and that b~~ Buffers may be reduced to provide a reasonable use of a property as specified in EMC 19.37.050.D. (*The*

additional language adds clarity and is consistent with the City's response to public access impacts concerns.)

In addition, expansion of existing facilities such as SR529 and I-5 may be allowed when mitigation is provided for buffer impacts.

- b. Where dike setbacks are proposed or required, the wetland area within the setback area (i.e., between the waterward toe of the existing dike and the waterward toe of the setback dike) shall be delineated per the state wetland delineation manual. Areas not presently functioning as wetland will be credited toward the required buffer area. *(Language added for clarity.)*
- c. The buffer on the south side of the Category 1 wetland north of the Simpson development pad shall ~~not~~ be determined by a wetland analysis per Sections 37.100 and 37.170 of the Everett Municipal Code. This analysis shall include a Habitat Management Plan (HMP) and Buffer Enhancement Plan (BEP). Buffers recommended in the wetland analysis cannot be less than 100 feet unless significant improvements are made to the wetland and buffer functions. In no case shall the buffer be reduced below 75 feet, and the trail shall be relocated outside of that buffer except where it connects to the trail along the river. The buffer shall be enhanced to provide for the potential for large woody debris recruitment into the wetland. Provided however that a spur trail to the wetland may be provided in the buffer to provide views into the wetland. Associated interpretive facilities such as signs, a viewing platform, and benches may also be provided in the buffers. *(The language reflects BAS and discussions with the City for buffers on this site.)*
- d. Buffers shall not be reduced below that required by EMC 19.37.100.A for the Urban Conservancy designated wetlands in the Marshland area, or the wetlands in 1997 SEWIP AUs 10, 8, and 20 on Smith Island, except when the proposal includes significant actions that would restore salmonid rearing functions, such as removing dikes, improving channel connections, and removing fill to create tidal marsh, and except where existing improvements such as the railroad effectively limit the buffers in some areas. *(The subsection is added to avoid confusion with buffer reduction options found elsewhere in EMC 19.37.)*
- e. Stormwater facilities such as wetponds ~~shall not be located~~ are prohibited in buffers for Category 1 streams and wetlands and the wetlands in 1997 SEWIP AUs 8, 10, and 20 on Smith Island and the Urban Conservancy designated wetlands in the Marshland area. In situations where stormwater facilities are placed in buffers on category 2, 3 & 4 wetlands

and streams, there shall be no significant loss of buffer functions. *(The language is added for clarity and is consistent with the language elsewhere in the SMP.)*

- f. To the extent feasible, projects shall be designed to shield environmentally sensitive areas and their buffers from high noise generating activities such as vehicle loading and maneuvering areas and loud industrial activities through site design, use of fencing and berms, etc.
 - g. Lighting shall be directed downward onto the site and away from environmentally sensitive areas and their buffers.
 - h. For all mitigation proposals incorporating buffer enhancement, a 5-year Set-Aside shall be required to cover the costs of monitoring, maintenance, and contingencies, including 50 percent of the cost of the plantings. The applicant's biologist shall submit a letter to the City upon installation of the buffer enhancement. Monitoring reports shall be submitted at the end of years 1, 3, and 5 following installation, unless more frequent reports are required in the approval. Contingencies must be implemented based upon the findings of the monitoring. The City may release the Set-Aside sooner than 5 years if the enhancement is determined by the City to be successful.
 - i. The buffer along Port Gardner Bay at the tank farm site shall be determined at the time redevelopment of the site is proposed. The requirements for buffer/shoreline treatment shall be determined based upon the biological assessment for the redevelopment.
Note that wherever text refers to the buffers required by EMC 19.37, it should be revised to state, the buffers required by the SMP.
- **Figure 4.10.** Figure 4.10 in the SMP shows the railroad in the wrong location (in Port Gardner Bay). That figure has been revised, and is attached.
 - **Page 5-30, Regulation #2.** Add "substantial" in front of public access.
 - **Log Storage and Rafting**
- a. Pages 5-2. Table 5.1 is to be revised to show that Log Storage and Rafting is prohibited in the Aquatic Environment.
 - b. Page 5-44. Use Regulation 2 is to be revised to state:

Expansion of existing log dumping, storage, or rafting areas is prohibited where grounding will occur and is prohibited in the Aquatic environment

through the expansion of nonconforming use process identified in EMC 19.38.

- **Shall be Prohibited.** All text that states, “shall not be permitted” or “shall not be allowed” shall be replaced with “shall be prohibited.”

SEWIP REGULATIONS

The following is to be added as a new regulation in SMP Section 3.9, with renumbering/relettering to occur as appropriate:

SEWIP Regulations

When compensatory wetland mitigation is required for development in the estuary, the applicant must comply with the following regulations unless an alternative that provides equal or greater compensation is approved by state and federal resource agencies.

SEWIP Salmon Overlay

Exception for Maulsby Mudflats: The compensation ratios in Regulations 3, 6, and 7, however, will not apply to the Maulsby Mudflats due to the high natural resource value of the mudflats and the higher uncertainty of successfully mitigating impacts to this site. Compensation ratios for development at that site will be determined at the time a development is proposed based upon specific mitigation proposals and input from appropriate state and federal agencies.

1 – Unavoidable Impacts. Unavoidable adverse impacts to tidal habitat functions that result from loss of littoral habitat functions or area in the Snohomish River Estuary (including Port Gardner) shall be compensated by restoring or enhancing historic tidal aquatic habitat functions and littoral area in the estuary.

Top priority is assigned to compensatory mitigation through tidal restoration in areas identified in the restoration plan (SO Section 6), and within the same EMU, where possible (Regulation 5). In cases where loss of function does not have an associated loss of littoral habitat area, mitigation can be provided in the form of restoration or enhancement of existing littoral habitat area, or by provision of new habitat area.

2 – Mitigation Timing. Compensatory mitigation for unavoidable adverse impacts to tidal habitat functions shall be provided, either in advance of the impact or concurrently with the actions resulting in impact. (See Regulation 7 for

a definition of concurrent mitigation.) No temporal lag shall occur between the time of loss of functions to the impact and the time when at least equivalent salmonid habitat functions are provided through mitigation actions.

3 – Minimum Compensation Requirements. The minimum requirements for compensation shall be:

- 1 acre (or fraction thereof) of restored littoral habitat for each acre (or fraction thereof) of littoral habitat lost from diking, dredging, and/or filling. Littoral habitat includes all area from -10.0 ft MLLW to at least OHW (where discernible; otherwise MHHW); area of both impact and mitigation sites is extended landward to the extent of the riparian zone as defined in Section 2.4.
- 1 acre (or fraction thereof) of tidal or palustrine habitat for each acre (or fraction thereof) of palustrine habitat lost to development (see also Regulation 16).
- 1.3 IVA-acres of habitat function for the limiting taxon (chinook or coho/bull trout) for each IVA-acre lost. This 30 percent increase in function accounts for uncertainty in the habitat assessments provided by the model as described above, and is intended to ensure that the SEWIP goal of a net increase in habitat function is achieved.

Minimum acreage compensation regulations do not apply to habitat restoration and enhancement projects that are not used for compensatory mitigation.

Mitigation credit for log raft storage restrictions that remove a stressor from a tideflat are only allowed as mitigation for lost habitat function, not area. Note that loss of riparian function above OHW should be scored by the model, and should be compensated. *(The additional language is required for clarity and based on the City's response to Ecology regarding this issue.)*

4 – Out-of-Kind Compensation.

- Development impacts to tidal or tidally influenced habitats shall not be compensated for with palustrine wetland enhancement, restoration, or creation.
- Development impacts to palustrine wetland habitats may be compensated for with tidal habitat restoration or creation on an acre-for-acre basis. If nontidal mitigation is proposed for loss of nontidal palustrine wetlands in the SEWIP planning area, it should be reviewed to ensure that opportunities to recover tidal function would not be foreclosed. To replace palustrine wetland functions with palustrine wetland functions, the original SEWIP process and vegetated wetland model applies (City of Everett et al. 1997).

- The Tidal Habitat Model shall be used to ensure that adequate replacement of salmonid habitat function is provided (i.e., it is assumed that within the regulations of SEWIP, the model will provide for replacement of habitat for salmonids, except that impacts to eelgrass will be evaluated and compensated for in accordance with WDFW mitigation policies).
- Out-of-kind compensation for the two watershed process-based functions identified in the Tidal Habitat Model (e.g., LWD recruitment, feeder bluffs) shall not be allowed, except for cases where tree removal is required for maintenance of the integrity of functional dikes.

5 – Where Compensation Can Occur.

- Compensation for impacts to vegetated palustrine wetlands may occur within any EMU, with either created, enhanced, or restored tidal habitat. However, to replace palustrine wetland functions with palustrine wetland functions, the original SEWIP process and vegetated wetland model applies. See the 1997 SEWIP Regulations after Regulation 16 below.
- Compensation for impacts to tidal (i.e., anadromous fish) habitats must occur with tidal habitat creation, enhancement, or restoration, preferably within the same EMU (Figure 3.1) or secondarily within the adjacent downstream EMU, with the following exceptions:
- Because the nature of salmonid habitat functions provided by the salmonid habitat in EMU 7 (Port Gardner shoreline) is somewhat different from those provided in EMUs upstream in the estuary, impacts in EMU 7 shall be compensated only in EMUs 4 or 7.
- Opportunities for habitat restoration in the highly modified habitats in EMUs 5 and 6 are limited; therefore, impacts in EMUs 5 and 6 may be compensated in EMUs 2, 3, 4, 5, or 6. Because EMUs 1, 2, and 6 have the smallest proportions of their total acreage that is salmon habitat (Table 4.2) within their boundaries, further reduction of habitat area and function should be avoided.
- Impacts in EMU 3 may be compensated in EMUs 2, 3, or 4.

6 – How Compensation is Calculated. The SEWIP assumes that in all cases there will be no temporal loss of cumulative salmonid habitat function as calculated by the model. Where mitigation is provided in advance of project impacts (e.g., the performance standards established for Year 5 have been met at the mitigation site), the acreage of compensation shall be calculated from the IVA function performance scores (Year 5) using the following ratio, provided that a

minimum compensation requirement of 1:1 acres ("no net loss") of area is met and provided that the minimum functional replacement compensation requirement of Regulation 3 is met.

<i>IVA score per acre function lost X acres lost</i>	= Acres of
<i>compensation</i>	
<i>IVA score per acre function gained at the mitigation site</i>	

7 – How Compensation is Calculated (Concurrent Mitigation). The acreage of compensation for concurrent mitigation (mitigation that is constructed but may not be fully functioning at the time impact is incurred) shall be calculated from the IVA function performance scores at the time of impact, provided that the minimum compensation requirements of Regulation 3 are met at all times (see Table 5.1 for example):

<i>IVA score per acre function lost X 1.3 (acres lost)</i>	= Acres of
<i>compensation</i>	
<i>IVA score per acre function gained (at the time of impact)</i>	

8 – Compensation Based on Limiting Function. Under Regulations 6 and 7, the acreage needed for compensation shall be calculated separately for the chinook and coho/bull trout functions. Whichever function requires the greater acreage for compensation (i.e., which is the limiting function) will determine the required overall compensation acreage in order to ensure that the limiting function is adequately compensated for. Excess compensation acreage for the nonlimiting function shall not be available as compensation for other habitat impacts.

9 – Use of Average Restoration Potential Per Acre. An average restoration potential per acre shall be used to establish the compensation requirements in cases where several AUs are restored simultaneously (as in a compensation bank) or where several individual project impacts are to be mitigated in a single restoration project. This average is calculated by summing the potential increase in IVA-acre points and dividing by the total acreage of the site. This average shall then be used to determine the acres of compensation required according to Regulations 3 and 6 or 7.

10 – Guidelines for Developing Compensatory Mitigation Plans. Compensatory mitigation and monitoring plans (CMMPs) with applicable performance standards submitted under the SEWIP plan should follow the interagency "Guidelines for Developing Freshwater Wetlands Mitigation Plans

and Proposals" (Department of Ecology Publication #94-29) and should be reviewed by the SSOTAC. Applicants should consider the overall restoration objectives set forth in Chapter 6.

11 – Performance Criteria. Standards and performance criteria shall be established for each mitigation action as described in Section 5.6 and stated in the CMMP.

12 – Monitoring Requirements. Each compensation site shall be monitored over a period of up to 10 years as described in Section 5.6.

13 – Threatened, Endangered, or Commercially Important Species. All tidal and associated riparian areas within the SEWIP planning area are designated critical habitat for chinook salmon and are likely to also constitute important habitat for coho salmon and anadromous native char. If areas in the UGA have other threatened, endangered or commercially important species, then the compensation plan shall incorporate design measures to mitigate any impacts to these species and their habitats.

14 – Use of Restoration Acreage in Lieu of Maintenance and Contingency Bond. The restoration of additional habitat acreage may be used in lieu of a maintenance and contingency bond. The area of this in-kind maintenance and contingency bond shall be at least equal to one-half the area required for compensation (1 additional acre of restoration for every 2 acres needed as compensation). Habitats that are restored/enhanced for the maintenance and contingency bond may be used or sold by the applicant to compensate for other impacts when all the 5-year performance standards established in the mitigation plan are met. Separate bonds may be required for monitoring.

15 – Projects with Impacts Outside of the Estuary Study Area. Projects with impacts outside of the SEWIP study area may be compensated for within the SEWIP study area, consistent with the SEWIP restoration and/or enhancement goals and objectives.

16 – Loss of Palustrine Wetlands. Compensation is required where existing palustrine wetlands will be converted to tidal habitat for compensatory mitigation. The acreages calculated per this regulation are set aside within the restored mitigation site and may not be considered as compensatory mitigation. However, to provide an incentive to developers to undertake tidal restoration as compensatory mitigation, while recognizing the range of functions provided by different types of isolated palustrine wetlands, the following ratios shall apply for wetlands, based on existing scores from the SEWIP freshwater model (Figure

5.1). Alternatively, a project proponent may rescore the site using that model to reflect existing conditions:

- Fourth quartile (highest quality) – 0.75 acre for each acre lost
- Third quartile (moderate quality) – 0.5 acre for each acre lost
- Second quartile (fair quality) – 0.3 acre for each acre lost
- First quartile (lowest quality) – 0.1 acre for each acre lost

No compensation shall be required for vegetated freshwater wetlands lost through restoration of tidal functions, if the restoration project is not used as compensatory mitigation.

1997 SEWIP Regulations (Apply to palustrine compensation only)

The following mitigation ratios apply only to the development footprint identified in figure 2.3 A in SEWIP. *(The new language is needed in order to distinguish between development footprints added to SEWIP without review by the SEWIP Review Committee.)*

G.1 Unavoidable Impacts. Unavoidable impacts to wetland functions in the Snohomish River Estuary shall be compensated by restoring historic wetlands in the Estuary identified in the restoration plans (Table 2.1 and Chapter 5).

G.1B. Where Compensation Can Occur. Compensation for impacts to vegetated palustrine wetlands may occur within the same Ecological Management Unit or within the adjacent Ecological Management Unit (See EMU Map, Figure 2.2).

G.2. Minimum Compensation Requirements. The minimum requirements for compensation will be one acre of restored wetland for one acre of wetland lost.

G.3A. How Compensation is Calculated. The acreage of compensation shall be calculated from the IVA function performance scores using the following ratio, provided that the minimum compensation requirement of regulation G.2 is met (see Figure 2.4 for example):

$\frac{\text{IVA score for per acre function lost}}{\text{IVA score for per acre function gained}} \times (1.25) \times (\text{acres lost}) =$	<p><i>Acreage of</i></p> <p><i>Compensa</i></p> <p><i>tion</i></p>
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This regulation applies when the restoration credits are less than the impact debits and the calculated "Acreage of Compensation" will not be less than the acreage loss; otherwise regulation G.2 should be applied. The 1.25 multiplier is included in this ratio calculation to compensate for the temporal loss of wetland functions at the

impact site during the time required for the functions at the compensation site to approach the "pre-impact" level of performance.

G.3B. How Compensation is Calculated When Regulations G.2 and G.9 are Met. In cases where the performance standards established for "year 5" have been met (see G.9), the acreage of compensation shall be calculated from the IVA function performance scores using the following ratio, provided that the minimum compensation requirement of regulation G.2 is met:

<i>IVA score for per acre function lost</i>	\times (acres lost) =	<i>Acreage of</i>
<i>IVA score for per acre function gained</i>	<i>Compensation</i>	

This regulation is intended to provide incentive to developers for the creation of large wetland compensation banks. The 1.25 "temporal" multiplier is not included in this ratio calculation because the compensation site has demonstrated through monitoring (Regulation G9) that wetland functions are performing as proposed in the compensatory mitigation plan.

G.4. Compensation is Based on Limiting Function. Under Regulations G.3A and G.3B, the acreage needed for compensation shall be calculated separately for the Water Quality Improvement and Habitat groups of functions. Whichever group of functions requires the greater acreage for compensation (i.e. which is the limiting group of functions¹) shall determine the required "overall compensation acreage"² in order to ensure that the limiting function is adequately compensated for. Excess compensation acreage³ for the non-limiting function shall not be available as compensation for other wetland impacts.

G.5. When to Use Average Restoration Potential Per Acre. An average restoration potential per acre shall be used to establish the compensation requirements in cases where several wetland complexes are restored simultaneously (as in a compensation bank). This average is to be calculated by summing the potential increase in IVA acre-points for each group of functions and dividing by the total acreage of the site. This average shall then be used to determine the acres of compensation required according to regulations G.2 or G.3.

¹ The "limiting group of functions" shall be defined as that group of functions (e.g. Water Quality Improvement or Habitat) which exhibits the least average increase in IVA score per acre for a particular restoration site.

² "Overall Compensation Acreage" shall be defined as the required acreage of compensation calculated from regulation G.3 for the limiting group of functions (e.g. either Water Quality Improvement or Habitat).

³ "Excess Compensation Acreage" is when the calculated acreage of compensation for the "non-limiting" group of functions is subtracted from the "Overall Compensation Acreage."

G.6. SEWIP Restoration Plan is a Guide for Objectives and Goals. The SEWIP restoration plan for an individual site must be used as the basis for setting the goals and objectives of any compensation proposed.

G.7. Guidelines for Developing Compensatory Mitigation Plans.

Compensatory mitigation plans with applicable performance standards submitted under the SEWIP plan should follow the interagency "Guidelines for Developing Freshwater Wetlands Mitigation Plans and Proposals" (Department of Ecology Publication #94-29, 40 pp).

G.7A. Threatened, Endangered or Commercially Important Species. If areas in the development footprint have SEWIP-mapped "threatened, endangered or commercially important species," then the compensation plan shall incorporate design measures to mitigate any impacts to these species. (See Figures 2.5 and 2.6.) SETOC will amend the Plan to incorporate any new mapped areas of threatened, endangered or commercially important species. If a COE regional permit is adopted, then the amendment process must meet the requirements of that permit⁴.

G.8. Use of Restoration Acreage in Lieu of Maintenance & Contingency Bond. The restoration of additional wetland acreage may be used in lieu of a maintenance and contingency bond⁵. The area of this "in-kind" maintenance and contingency bond will be equal to the area required for compensation (one additional acre of restoration for every acre needed as compensation). Wetlands that are restored/enhanced for the maintenance and contingency bond may be used or sold by the applicant to compensate for other impacts when all the five-year performance standards established in the mitigation plan are met. Separate bonds for monitoring shall be required.

G.9. Monitoring Requirements. Each compensation site shall be monitored over a period of 10 years. The wetland compensation plan shall establish a set of applicable performance standards. Additionally, the compensation plan shall include post-project assessment of the site using the IVA model to determine if the projected increase in the IVA scores (restoration potential) for the compensation site has been achieved. When the performance standards established for year 5 are met (which may occur during any year of the monitoring period) and the increase in IVA points projected for the compensation site has occurred, then regulation G.3B may be applied.

⁵ The maintenance bond would be used to ensure restoration goals and objectives are met and may include maintenance actions such as control of invasive species, watering of plants, and maintenance of any installed structures, such as inlet and outlet structures. The contingency bond would be used to provide for correction of design deficiencies identified through monitoring of hydrology, soils and wetland and buffer plantings and ensure attainment of the restoration goals and objectives.

G.10. Projects With Impacts Outside of the Estuary Study Area. Projects with impacts outside of the SEWIP study area may be compensated for within the SEWIP study area, consistent with the SEWIP restoration and/or enhancement goals and objectives.

CONCLUSIONS: the City's SMP as submitted, together with the department's required changes, is consistent with shorelines management policy contained in RCW 90.58.020; the provisions of RCW 90.58.090(3) and (4) relating to shorelines and shorelines of state-wide significance; and RCW 90.58.100 with regard to use of all available information and required elements of a master program. Through the combined use of existing regulations such as:

- EMC 19.37.100D – Increased Standard Wetland Buffer Width
- EMC 19.37.100E – Wetland and buffer width enhancement plan for reduced wetland buffers
- EMC 19.37.110D – Wetland Mitigation Plans
- EMC 19.37.130C – Standard Buffer Width Increase for Streams
- EMC 19.37.130D – Stream and buffer width enhancement plan for reduced stream buffers
- EMC 19.37.170 – Fish and Wildlife Conservation Areas
- EMC 19.37.170A – Habitat Management Plans

and the City's amendments, together with Ecology required changes:

- The Planning Director Interpretation
- SEWIP mitigation regulations
- Site specific buffer requirements
- The Mulsby Mudflats Subarea Plan
- Most protective measures shall apply

the state-wide interest is preserved, while shoreline habitat values will be protected and enhanced.

RECOMMENDATION: Approve the amendments with the required changes noted herein.

Table 5.1 Shoreline Use Table

Environment/ Use	Deep Water Port	Maritime	Industrial	Mixed Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Agriculture	X	X	X	P	X	X	P	X	P	X	X	X
Aquaculture	P	P	P	P	P	X	X	X	X	X	P	C
Boating Facilities	P	P	P	P	P	P	P	X	P	X	P	X
Commercial												
Water-dependent	P	P	P	P	P	X	P, 2	X	X	X	P, 12	X
Water-related	P	P	P	P	P	X	P, 2	X	X	X	P, 12	X
Water-enjoyment		P	P	P	P	X	P, 2	X	X	X	P	X
Nonwater-oriented	X	X	P	P	P	X	P, 2	X	X	X	X	X
Forest Practices, 8	P	P	P	P	P	P	P, 3	X	P	P	NA	NA
Industry	P	P	P	P	P, 6	X	C, 1	X	X	X	P, 12	X
In-stream Structures	P	P	NA	NA	NA	NA	NA	NA	P	P	P	C, 14
Log Storage and Rafting	P, 15	P, 15	P, 15	P, 15	X	X	X	X	X	X	P, 15	X
Mining	X	X	X	X	X	X	X	X	X	P	X	X
Parking	P	P	P	P	P	P	P	X	P	P	X	X
Recreational	P	P	P	P	P	P	P	P, 9	X	X	P, 12	X
Residential												
Development	X	X	X	X	P	P	X	X	X	X	X	X
Signs	P	P	P	P	P	P	P	P, 7	P, 4	P, 4	P, 10	X
Outdoor Advertising	X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Landfill and In-water Disposal	X	X	X	X	X	X	X	X	X	X	X	X
Solid Waste Collection Facilities	P	P	P	P	P	P	P	X	P	P	P	X

Environment Use	Deep Water Port	Maritime	Industrial	Mixed-Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Solid Waste Transfer Stations	X	X	C	C	X	X	X	X	X	X	X	X
Transportation Facilities	P	P	P	P	P	P	P	P, 13	P	P	C, 11	C
Utilities and Utility Facilities	P	P	P	P	P	P	P	P	P	P	P	C, 14

Note that the proposed use must also be an approved use in the Zoning Code. For example, where industrial activities are permitted in the Shoreline Environment, the Zoning Code may limit permitted uses to certain kinds of industrial activities.

P = Permitted Use (Note that the Regulations in this Section contain limitations on permitted shoreline uses.

C = Conditional Use (See Section 2.4 for Conditional Use Criteria)

X = Prohibited (Not allowed under any circumstances. Limitations in regulations do not apply.) *(The language is necessary in order to distinguish from prohibited modifications except in limited situations.)*

1 = Permitted only in the Agriculture Zone for activities such as food processing.

2 = Permitted only in Public Parks for concessions.

3 = Permitted only in the Agriculture Zone

4 = Directional signs only

5 = Only to allow a reasonable use of a property. (No #5 exists on table. It is a remnant of an earlier version.)

6 = Permitted in the multi-use zones along the riverfront. However, industrial uses are limited to high tech, office-park-type, non-warehouse type activities?

7 = Only interpretive and public access signs

8 = Forest practices are allowed in any environment when completed as part of a public access or mitigation/restoration proposal.

9 = Only minor public access improvements such as trails, boardwalks, overlooks, interpretive signs are permitted. Associated facilities including parking, restrooms, etc., must be located outside of the Conservancy environment.

10 = Permitted on structures allowed over water.

11 = Expansion of existing facilities does not require a conditional use.

12 = Permitted to the pierhead/harbor line when the use is permitted on the adjacent shoreline site.

13 = A conditional use permit is required for expansion of the railroad in the Urban Conservancy environment along Port Gardner Bay.

14 = A conditional use permit is not required for water-dependent utilities.

¹⁵ New log storage areas are prohibited except on dry land. Expansion of existing areas is prohibited where grounding will occur and in the Aquatic Environment. *(The changes make the table consistent with the regulations found in Section 5.9 - Log Storage and Raising.)*

Table 6.1 Shoreline Modification Activity By Environment

Shoreline Modification	Environment	Deep Water Port	Maritime	Industrial	Mixed-Use Industrial	Multi-Use	Shoreline Residential	Conservancy Recreation	Conservancy	Municipal Water Quality	Municipal Watershed	Aquatic	Aquatic Conservancy
Stabilization		P	P	P	P	P	P	P	P	P	P	P	C,1
Breakwaters		C,1	C,1	C,1	C,1	NA	X	X	X	X	X	C,1	X
Dredging		P	P	NA	NA	NA	NA	NA	NA	NA	P,3	P	P,5
Placement of Dredge Material		P	P	P	P	P	X	P	C,1	P	C,3	C,1,2	P,5
Dredge Material Retarding Facility		P	P	P	P	P	X	P,4	X	X	C,3	X	X
Jetties and Groins		C,1	C,1	C	C,1	C,1	X	C,1	X	C	C,3	C,1	X
Landfill landward of OHWM		P	P	P	P	P	P	P	P	P	P	NA	NA
Landfill waterward of OHWM		P	P	C,1	C,1	C,1	C,1	NA	NA	C,1	C,1	C,1	P,5
Piers and Docks		P	P	P	P	P	P	P	C	P	P	P	C,6
Weirs		C	C	C	C	C	C	C	C	C	C	C,1	C,1

P = Permitted Use (Note that the Regulations in this Section contain limitations on permitted shoreline modification activities. The modifications are not permitted in all cases.)
C = Conditional Use (See Section 2.4 for Conditional Use Criteria)

X = Prohibited (Not allowed under any circumstances. Limitations in regulations do not apply.) *(The language is necessary in order to distinguish from prohibited modifications except in limited situations.)*

1 = A Conditional Use is not required for structures installed to protect or restore ecological functions.

2 = A Conditional Use Permit is not required for disposal at a PSDDA site.

3 = Permitted only as necessary for the maintenance of water supply facilities.

4 = Permitted at Langus Riverfront Park and Thorton A. Sullivan Park only.

5 = Permitted only for environmental restoration or mitigation actions; or for beach enhancement or landfill to enhance public access when all impacts to critical saltwater habitats are mitigated.

6 = Permitted only for public access improvements.